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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**CHRISTINA JEAN GABRIEL
AKA CHRISTINE JEAN GABRIEL
P O Box 1633
Nevada City, CA 95959**

Registered Nurse License No. 386404

RESPONDENT

Case No. 2012-441

OAH No. 2012041095

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 15, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-441 against Christina Jean Gabriel aka Christine Jean Gabriel (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about June 30, 1985, the Board of Registered Nursing (Board) issued Registered Nurse License No. 386404 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

3. On or about February 15, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-441, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

P O Box 1633

1 Nevada City, CA 95959.

2 4. Service of the Accusation was effective as a matter of law under the provisions of
3 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
4 124.

5 5. On or about February 27, 2012, Respondent signed and returned a Notice of Defense
6 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
7 address of record and it informed her that an administrative hearing in this matter was scheduled
8 for October 24, 2012. Respondent failed to appear at that hearing.

9 6. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
11 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
12 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
13 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

14 7. California Government Code section 11520 states, in pertinent part:

15 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
16 agency may take action based upon the respondent's express admissions or upon other evidence
17 and affidavits may be used as evidence without any notice to respondent.

18 8. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on
20 Accusation No. 2012-441 and the documents contained in Default Decision Investigatory
21 Evidence Packet in this matter which includes:

22 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-441,
23 Statement to Respondent, Notice of Defense (two blank copies), Request
24 for Discovery and Discovery Statutes (Government Code sections
25 11507.5, 11507.6 and 11507.7), proof of service; mail receipt; Notice of
26 Defense and Notice of Hearing;

27 Exhibit 2: License History Certification for Christina Jean Gabriel, aka Christine
28 Jean Gabriel, Registered Nurse License No. 386404;

1 Exhibit 3: Court and Arrest Records;

2 Exhibit 4: Out of State Discipline (Oregon and Montana Boards of Nursing);

3 Exhibit 5: Affidavit of Kami Pratab;

4 Exhibit 6: Declaration of costs by Office of the Attorney General for prosecution of
5 Case No. 2012-441.

6 The Board finds that the charges and allegations in Accusation No. 2012-441 are separately and
7 severally true and correct by clear and convincing evidence.

8 9. Taking official notice of Certification of Board Costs and the Declaration of Costs by
9 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
10 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
11 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
12 \$2,062.50 as of November 6, 2012.

13 DETERMINATION OF ISSUES

14 1. Based on the foregoing findings of fact, Respondent Christina Jean Gabriel aka
15 Christine Jean Gabriel has subjected her following license(s) to discipline:

16 a. Registered Nurse License No. 386404

17 2. The agency has jurisdiction to adjudicate this case by default.

18 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)
19 based upon the following violations alleged in the Accusation, which are supported by the
20 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

21 a. Violation of Business and Professions Code section 2761(a) - Unprofessional
22 Conduct.

23 b. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary
24 action by another State Board of Nursing.

25 c. Violation of Business and Professions Code section 2761(f) - Conviction
26 substantially related to the qualifications, functions and duties of a
27 registered nurse.
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1 d. Violation of Business and Professions Code section 2762(b) - Use of controlled
2 substance or alcohol to an extent or in a manner dangerous or injurious to
3 oneself and others.

4 e. Violation of Business and Professions Code section 2762(c) - Criminal
5 conviction involving alcoholic beverages or controlled substances.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 386404, heretofore issued to Respondent Christina Jean Gabriel aka Christine Jean Gabriel, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 8, 2013.

It is so ORDERED February 8, 2013



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2012-441

Exhibit A

Accusation Case No. 2012-441

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 BRIAN S. TURNER
Deputy Attorney General
4 State Bar No. 108991
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0603
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 **In the Matter of the Accusation Against:**
12 **CHRISTINA JEAN GABRIEL, A.K.A.**
13 **CHRISTINE JEAN GABRIEL**
14 **P.O. Box 1633**
15 **Nevada City, California 95959**

Case No. 2012-441

A C C U S A T I O N

14 Registered Nurse License No. 386404

15 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about June 30, 1985, the Board issued Registered Nurse License Number
24 386404 to Christina Jean Gabriel, a.k.a. Christine Jean Gabriel ("Respondent"). The registered
25 nurse license was in full force and effect at all times relevant to the charges brought herein and
26 will expire on December 31, 2012, unless renewed.

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STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct...,

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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1 **COST RECOVERY**

2 7. Code section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Criminal Conviction)**

8 8. Respondent has subjected her license to discipline pursuant to Code section 2761,
9 subdivision (f) in that Respondent has been convicted of the following crimes that are
10 substantially related to the qualifications, functions, or duties of a registered nurse:

11 a. On or about June 22, 2006, in the Superior Court, County of Tuolumne, California, in
12 the matter entitled *People vs. Christina Jean Gabriel*, 2006, Case No. CRM21342, Respondent
13 was convicted following her plea of no contest to a violation of Vehicle Code section 23103.5
14 (wet and reckless), a misdemeanor, and Vehicle Code section 12500, subdivision (a) (drive a
15 vehicle without a valid driver's license), a misdemeanor. The circumstances of the crime are that
16 on May 25, 2006, Respondent was arrested for driving under the influence of alcohol following a
17 traffic stop.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Conviction of a Crime Involving Alcohol)**

20 9. Respondent is subject to discipline pursuant to Code section 2762, subdivision (a), on
21 the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (c), in that
22 Respondent has been convicted of a crime involving the consumption of alcohol, as more
23 particularly set forth in paragraph 8, above.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)**

26 10. Respondent is subject to discipline pursuant to Code section 2762, subdivision (a), on
27 the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (b), in that
28 in or about April 1990, and on or about May 25, 2006, Respondent used alcohol to an extent or in

1 a manner dangerous or injurious to herself or others, as more particularly set forth in paragraphs 8
2 and 9, above, and paragraph 11, subparagraph a, below.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Out of State Discipline)**

5 11. Respondent has subjected her license to discipline pursuant to Code section 2761,
6 subdivision (a)(4) on the grounds of unprofessional conduct, in that, Respondent has been
7 disciplined by other nursing boards, as follows:

8 a. Effective May 22, 1990, the Board of Nursing of the State of Oregon ("Oregon
9 Board") pursuant to the Stipulation for Probation in Case No. 90-189, Respondent was placed on
10 probation for a period of two (2) years with conditions. The basis for discipline is that on or
11 about April 9, 1990, Respondent admitted to Oregon Board staff that she had abused alcohol to
12 the extent that she required inpatient treatment at Serenity Lane Treatment Center.

13 b. On or about December 19, 2003, the Montana Board of Nursing denied the
14 application for licensure by endorsement submitted by Respondent. The basis for denial was that
15 Respondent was not honest in her application for licensure in that state. In her response to a
16 question regarding whether or not any other licensing agency had ever taken adverse or
17 disciplinary action against her nursing license, Respondent answered "No". In fact, on or about
18 October 24, 2003, the Montana Board of Nursing received a copy of the Findings of Fact,
19 Conclusions of Law and Order dated May 22, 1990, from the Oregon Board of Nursing, placing
20 Respondent's Oregon nursing license on probation for a period of two years for alcohol abuse.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 386404, issued to Christina Jean Gabriel, a.k.a. Christine Jean Gabriel;

2. Ordering Christina Jean Gabriel, a.k.a. Christine Jean Gabriel to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: February 15, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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